

AMENDED IN ASSEMBLY JUNE 25, 2008

AMENDED IN SENATE APRIL 15, 2008

SENATE BILL

No. 1583

Introduced by Senator Corbett

February 22, 2008

An act to add Sections 1021.7 and Section 2753 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1583, as amended, Corbett. Employment: independent contractors.

~~Under existing law, a person who knowingly enters into a contract for services that require an independent contractor license with a person who does not meet the burden of proof of independent contractor status, as prescribed, is subject to a civil penalty of \$200 per person so contracted for each day of the contract.~~

Existing law creates a rebuttable presumption that certain workers performing services for which a license is required are employees rather than independent contractors.

This bill would provide that a person who, *for money or other valuable consideration*, knowingly advises ~~another person~~ *an employer* to treat an individual as an independent contractor to avoid employee status for the individual shall be jointly and severally liable with the employer if the individual is not found to be an independent contractor. *This bill would exempt from the provisions regarding joint and several liability a person who provides advice to his or her employer or an attorney who provides legal advice in the course of practicing law.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 1021.7 is added to the Labor Code, to~~
2 ~~read:~~

3 ~~1021.7. (a) A person who knowingly advises another person~~
4 ~~for money or other valuable consideration to treat an individual~~
5 ~~as an independent contractor to avoid employee status for the~~
6 ~~individual shall be jointly and severally liable with the employer~~
7 ~~for the civil penalty provided in Section 1021.5 if the individual~~
8 ~~is not found to be an independent contractor.~~

9 ~~(b) This section does not apply to an attorney authorized to~~
10 ~~practice law in California or another United States jurisdiction~~
11 ~~who provides legal advice in the course of the practice of law.~~

12 ~~SEC. 2.~~

13 ~~SECTION 1.~~ Section 2753 is added to the Labor Code, to read:

14 ~~2753. (a) A person who, for money or other valuable~~
15 ~~consideration, knowingly advises an employer to treat an individual~~
16 ~~as an independent contractor to avoid employee status for that~~
17 ~~individual shall be jointly and severally liable with the employer~~
18 ~~if the individual is not found to be an independent contractor.~~

19 ~~(b) This section does not apply to an attorney authorized to~~
20 ~~practice law in California or another United States jurisdiction~~
21 ~~who provides legal advice in the course of the practice of law. the~~
22 ~~following persons:~~

23 ~~(1) A person who provides advice to his or her employer.~~

24 ~~(2) An attorney authorized to practice law in California or~~
25 ~~another United States jurisdiction who provides legal advice in~~
26 ~~the course of the practice of law.~~